

Message Text

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70

ACTION COA-02

INFO OCT-01 ARA-16 ISO-00 COME-00 EB-11 AGR-20 INT-08

DLOS-06 CG-00 H-03 L-03 PRS-01 SCA-01 SCS-03 DODE-00

PM-07 TRSE-00 OMB-01 SS-20 NSC-10 CIAE-00 INR-10

NSAE-00 RSC-01 DRC-01 PA-04 USIA-15 /144 W

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R 302031Z OCT 73

FM AMEMBASSY QUITO

TO SECSTATE WASHDC 9027

INFO AMEMBASSY LIMA

AMCONSUL GUAYAQUIL

C O N F I D E N T I A L QUITO 5619

E.O. 11652: GDS

TAGS: PBOR, EFIS, EC

SUBJECT: NEW ECUADOREAN FISHERIES LEGISLATION: FEES AND
PENALTIES

1. THE NEW ECUADOREAN BASIC LAW ON FISHING IS APPARENTLY
NEARING PROMULGATION. AT THE CABINET MEETING HELD
OCTOBER 23 A TEXT WAS CIRCULATED FOR STUDY IN PREPARA-
TION FOR SUBSTANTIVE DISCUSSION AT A SUBSEQUENT SESSION,
POSSIBLY OCTOBER 30 OR NOVEMBER 6.

2. THE DRAFT, WHICH WE HAVE OBTAINED ON A CONFIDENTIAL
BASIS, STATES THAT THE BIOLOGICAL RESOURCES OF THE
TERRITORIAL SEA ARE THE "PROPERTY OF THE STATE." AT
THE SAME TIME IT EXPRESSLY ADDS THAT THE EXPLOITATION
AND CONSERVATION OF THOSE RESOURCES SHALL ALSO BE "IN
ACCORDANCE WITH INTERNATIONAL AGREEMENTS RATIFIED BY
THE GOE."

3. THE TEXT AUTHORIZES THE MINISTRY OF NATURAL RESOURCES
TO SET FISHING LIMITS FOR DIFFERENT SPECIES AND GIVES
PREFERENCE TO ECUADOREAN OWNED FISHING COMPANIES.

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4. IT ESTABLISHES THE PRICE OF MATRICULAS (THE ANNUAL PERMIT WHICH AUTHORIZES THE OWNER TO APPLY FOR A FISHING LICENSE) AT 50,000 SUCRES (OR \$2,024, UP FROM \$350.) IT SETS THE PRICE OF LICENSES AT 2,500 SUCRES PER NET REGISTERED TON PER VOYAGE (\$101, UP FROM \$20). ALTHOUGH LAW IS NOT CLEAR ON THIS POINT, WE ASSUME THAT VESSELS BUYING MATRICULAS AND LICENSES BEFORE LAW TAKES EFFECT WILL BE ABLE TO FISH THIS SEASON AT OLD COSTS.

5. THE FINE FOR FOREIGN FLAG FISHING WITHOUT A LICENSE IS SET AT FOUR TIMES THE COST OF THE LICENCE. FOR THE SECOND OFFENSE THE FINE IS DOUBLED. THE FINE FOR SUBSEQUENT OFFENSES IS DOUBLE THE PREVIOUS FINE IMPOSED.

6. IN ADDITION TO THE FINE, THE CATCH ON BOARD WHENEVER THE SHIP IS ARRESTED IS TO BE CONFISCATED.

7. THE DISTRIBUTION OF THE INCOME FROM FINES IS: THE NAVY 70 PERCENT; MINISTRY OF NATURAL RESOURCES 20 PERCENT; THE STATE FISHING CORPORATION 5 PERCENT; AND THE ECUADOREAN ELEMENT OF THE SOUTH PACIFIC COMMISSION 5 PERCENT. THE DISTRIBUTION OF THE INCOME FROM THE SALE OF CONFISCATED TUNA IS 50 PERCENT TO THE STATE FISHING CORPORATION AND 50 PERCENT TO THE NAVY.

8. THERE IS NO PROVISION FOR THE CONFISCATION OF BOATS, FISHING EQUIPMENT NOR FOR THE JAILING OF CAPTAINS, PROVISIONS WHICH WE HAVE REASON TO BELIEVE WERE IN EARLIER VERSIONS OF THE LAW BUT WERE ELIMINATED AT FOREIGN OFFICE INSISTENCE.

9. CAPTAINS HAVING COMMITTED AN OFFENSE BEFORE, EVEN THOUGH IN DIFFERENT SHIP, WILL BE REGARDED AS MULTIPLE OFFENDERS. IN OTHER WORDS, THE GOE WILL KEEP SCORE NOT ONLY OF SHIPS BUT ALSO OF CAPTAINS.

10. COMMENT: WHILE THE TEXT IS NOT YET IN FINAL FORM, IT HAS BEEN THROUGH THE STAFFING PROCESS AND IS READY FOR FORMAL CABINET CONSIDERATION. WE DOUBT THERE WILL BE ANY IMPORTANT SUBSTANTIVE CHANGES PRIOR TO PROMULGATION
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WHICH CAN BE EXPECTED WITHIN THE NEXT SEVERAL WEEKS.

11. THE PRACTICAL CONSEQUENCES OF THIS NEW LAW WILL BE A SHARP INCREASE IN FINE PAYMENTS AND OTHER REIMBURSEMENTS BY THE US TREASURY UNDER THE FPA. HOWEVER, IT IS DIFFICULT TO ESTIMATE THE AMOUNT OF THE INCREASE SINCE IT IS NOT YET CLEAR WHEN THE LAW WILL TAKE EFFECT, HOW MUCH TUNA WILL BE CONFISCATED, AND HOW THE FINES WILL

BE CALCULATED IN PRACTICE. FOR EXAMPLE, GIVEN THE GREAT INCREASE IN THE LICENSE FEE, THE BASIC FINE WILL BE HIGHER IN SOME CASES THAN DOUBLE THE PREVIOUS FINE FOR MULTIPLE OFFENDERS. THE LAW IS UNCLEAR WHETHER IN SUCH CASES WILL THE GOE BE SATISFIED WITH DOUBLE THE PREVIOUS FINE OR IT WILL ESTABLISH A THEORETICAL PREVIOUS FINE BASED ON THE NEW LICENSE FEE. THE COSTS OF REIMBURSING FOR CONFISCATED TUNA AT ABOUT \$500 PER TON COULD BE QUITE HIGH BUT MAY BE OFFSET TO SOME EXTENT BY THE FACT THAT MOST ARRESTS COME EARLY IN THE TRIP, BEFORE THE BOATS ARE FULL. GIVEN THE UNCERTAINTIES INVOLVED IN A CALCULATION OF HOW MUCH THIS LAW MIGHT COST THE USG THIS FY, PAYMENTS UNDER FPA COULD RUN FROM \$6 TO \$10 MILLION. IF WE ASSUME THE SAME NUMBER OF ARRESTS AS LAST YEAR (WHICH WAS NOT A VERY GOOD FISHING YEAR) AND SIMPLY QUINTUPLE THOSE COSTS THE TOTAL WOULD BE \$8 MILLION FOR FY 74.

BREWSTER

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